

Pamela Hibbert, LPN

7/30/2015

1

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF OKLAHOMA

3 1) MICHELLE ERNST, As
4 Personal Representative of
5 the Estate of DAVID MICHAEL
6 ERNST, Deceased,

7 Plaintiff,

8 vs.

No. 14-CV-504-GKF-PJC

9 1) CREEK COUNTY PUBLIC
10 FACILITIES AUTHORITY,
11 2) ADVANCED CORRECTIONAL
12 HEALTHCARE, INC.,

13 Defendants.

14 DEPOSITION OF PAMELA HIBBERT, LPN
15 TAKEN ON BEHALF OF THE PLAINTIFF
16 ON JULY 30, 2015, BEGINNING AT 10:10 A.M.
17 IN OKLAHOMA CITY, OKLAHOMA

18 APPEARANCES

19 On behalf of the PLAINTIFF:

20 Micky Walsh
21 BEELER, WALSH & WALSH
22 4508 North Classen
23 Oklahoma City, Oklahoma 73118
24 (405) 843-7600
25 mwalsh@beelerwalshwalsh.com

- and -

Carla Stinnett
DENNEY & STINNETT
301 East Dewey
Sapulpa, Oklahoma 74066
(918) 227-1177
carla@gregdenneylaw.com

(Appearances continued on next page.)

REPORTED BY: Jane McConnell, CSR RPR RMR CRR

Professional Reporters

800.376.1006

www.proreporters.com

Pamela Hibbert, LPN

7/30/2015

5

1 WHEREUPON,

2 PAMELA HIBBERT, LPN,

3 after having been first duly sworn, deposes and

4 says in reply to the questions propounded as

5 follows, to-wit:

6 DIRECT EXAMINATION

7 BY MR. WALSH:

8 Q Would you state your full name, please.

9 A Pamela Sue Hibbert.

10 Q Ms. Hibbert, how are you presently
11 employed?

12 A I am a nurse trainer through Advanced
13 Correctional Healthcare.

14 Q How long have you been a nurse trainer?

15 A I believe it's been since about 2007.

16 Q What are your job responsibilities as a
17 nurse trainer?

18 A I go from state to state and I try and go
19 through orientation with new nurses and jail staff
20 also, depending on site to site, but kind of like
21 introduction to correctional nursing. I go over all
22 of our forms that our company has.

23 Q Have you given an orientation to the guard
24 staff at the Creek County facility?

25 A No.

Professional Reporters

800.376.1006

www.proreporters.com

Pamela Hibbert, LPN

7/30/2015

17

1 Q -- to make sure they get it, correct?

2 A Yes.

3 Q Do you call the inmates "patients" at ACH?

4 A Yes.

5 Q And that is true -- have you ever worked
6 in the private sector of nursing?

7 A Yes. I worked at nursing homes for years.

8 Q You were certainly an advocate for those
9 patients, weren't you?

10 A Yes.

11 Q Have you ever worked in hospitals?

12 A For a short time.

13 Q What did you do in hospitals?

14 A I worked on a med surge floor.

15 Q You treated people that had come out of
16 surgery?

17 A Right.

18 Q You were certainly an advocate for those
19 patients, weren't you?

20 A Yes.

21 Q When you went to nursing school to obtain
22 your LPN licensure, how many years did that take?

23 A Two.

24 Q What year did you obtain your licensure?

25 A 1983.

Professional Reporters

800.376.1006

www.prreporters.com

Pamela Hibbert, LPN

7/30/2015

18

1 Q Are you licensed in the State of Oklahoma?

2 A Yes.

3 Q When did you obtain your license in the
4 State of Oklahoma?

5 A I'm not sure. I hold 17 licenses. So I'm
6 not sure. I know they're all current.

7 Q As the orientation trainer, you're
8 required to be licensed in each state that you're
9 going to be providing those services, aren't you?

10 A I can teach but I can't do any patient
11 care. But I'm licensed, so it doesn't....

12 Q As part of the orientation that you give
13 to these nurses, do you do patient care to show them
14 how you handle situations in a correctional
15 facility?

16 A Most of the time, most of the time.

17 Q It is certainly different working in a
18 correctional facility than working in a hospital,
19 isn't it?

20 A Somewhat, yeah.

21 Q But the basics of what you do does not
22 change regardless of the facility, does it?

23 A Right.

24 Q What year did you obtain your LPN?

25 A 1983.

Professional Reporters

800.376.1006

www.proreporters.com

Pamela Hibbert, LPN

7/30/2015

37

1 A I would think that's where the complaints
2 would go, would be to ACH.

3 Q Where would those complaints be kept?

4 A HR department.

5 Q When you were here in June of 2014, did
6 any of the nurses make complaints to you about the
7 workload?

8 A No.

9 Q Did it appear that they were able to
10 handle the workload that they had?

11 A Yes.

12 Q You indicated that you have reviewed the
13 medical file or chart of Mr. Ernst, correct?

14 A Yes.

15 Q When you reviewed that medical chart, were
16 you satisfied with the charting for Mr. Ernst during
17 the time that he was incarcerated at Creek County?

18 A Satisfied? I don't understand. For what?

19 Q Did you say to yourself, "This is a good
20 chart, they documented things well, they followed up
21 on what they should have followed up on"?

22 A I didn't say that it was a good chart.

23 Q You didn't say it was a good chart?

24 A Huh-uh.

25 Q What were your thoughts about the chart

Professional Reporters

800.376.1006

www.prreporters.com

1 when you reviewed it?

2 A I never really thought of it as being a
3 good chart or a bad chart. I reviewed it and looked
4 at the information there.

5 Q Did you have any questions about why the
6 medication that had been prescribed to Mr. Ernst was
7 reduced in dosage?

8 A No.

9 Q You certainly understand that psychotropic
10 drugs, you have to reach a level with those drugs in
11 order for those to be effective, don't you?

12 A Yes.

13 Q Any time you reduce the dosage of a
14 psychotropic drug that is being given to a patient
15 with mental illness, it can have effects on that
16 patient, can't it?

17 MR. McMILLIN: Object to the form.

18 A There's so many different drugs, I'd have
19 to -- I know where to look for side effects, but I'd
20 have to review whatever drug you're referring to.

21 Q (BY MR. WALSH) What drugs was Mr. Ernst
22 on that were psychotropic?

23 A I believe he was on Remeron, and I know
24 the other drugs he was on, but the -- I've got it
25 right here in front of me.

1 Q Okay.

2 A BuSpar, that would be a psychotropic.
3 Gabapentin could be used for many
4 different reasons. It's used for seizures. It's
5 also used for pain control. It's probably the most
6 common one, and it's also used for -- it can be used
7 as a psychotropic.

8 Q We've been using Remeron. That is
9 actually not how the drug was listed in the MAR
10 records, was it?

11 A It's the generic Mirtazapine.

12 Q Mirtazapine. Do you know whether
13 Mirtazapine is what they term an SSRI?

14 A Yes.

15 Q What does SSRI stand for?

16 A I'm not sure. I'd have to look that up,
17 look at the definition.

18 Q Do you know what the significance is of
19 giving a psychotropic drug that is designated as an
20 SSRI?

21 A It's usually for depression, but I think
22 there's different -- they're not all classified as
23 that. I'd have to look it up.

24 Q The Mirtazapine that was being given, did
25 you look to see what the dosage was that was being

Pamela Hibbert, LPN

7/30/2015

71

1 A Uh-huh.

2 Q Shouldn't there be something in the chart
3 by the doctor as to why the dosage was reduced?

4 A Not necessarily.

5 Q So a doctor can reduce the dosage of a
6 psychotropic medication a patient is having without
7 ever seeing that patient and without documenting
8 that in the file, according to ACH policies?

9 A Not according to ACH. I mean, that's just
10 the standard. The doctor can give any kind of
11 telephone order he wants.

12 Q I understand, but that's without ever
13 seeing the patient. Do you understand that?

14 A Uh-huh.

15 Q Do you think that's sound practice?

16 A That would just be an opinion.

17 Q What do you think?

18 MR. McMILLIN: Object to the form.

19 A I respect my doctors.

20 Q (BY MR. WALSH) I understand you respect
21 them, but does that make sense to you, that having
22 never seen this man that they would reduce a
23 medication that he had been taking by a third?

24 MR. McMILLIN: Object to the form. It's
25 beyond her qualifications.

Professional Reporters

800.376.1006

www.proreporters.com

Pamela Hibbert, LPN

7/30/2015

72

1 Q (BY MR. WALSH) Go ahead.

2 A If I have a question for a doctor, I'll
3 ask them. That's their decision. I don't usually
4 question them.

5 Q I understand. But as an advocate for your
6 patient, would you want to know why the doctor
7 thought he could reduce that medication by a third?

8 A I'll have to say no.

9 Q When you looked through the MAR, did you
10 find that the Mirtazapine had been given on each of
11 the dates it was supposed to be given?

12 A Are you referring to the little blanks on
13 there?

14 Q Yes, ma'am.

15 A Like on the 23rd, 24th?

16 Q Yes, ma'am.

17 A The officers pass meds in the p.m. there
18 at Creek, and I see a couple of the a.m.'s are
19 missing too, though. I would hopefully assume that
20 it was just an oversight as far as the officer
21 signing or the nurse signing the MAR off.

22 Q Well, you're aware of the nursing adage,
23 "If it's not documented it wasn't done"?

24 A I understand that, yes.

25 Q When you look at a MAR, you don't want to

Professional Reporters

800.376.1006

www.prreporters.com

Pamela Hibbert, LPN

7/30/2015

114

1 acuity?

2 A Nothing.

3 Q Were you told that anyone was concerned
4 about him?

5 A I don't remember the officer's exact
6 words, but he must have been concerned or he would
7 have never asked me to see him. I don't believe the
8 word "suicide" was ever mentioned.

9 Q In addition to when an inmate receives a
10 lengthy sentence, you said they're at an increased
11 risk of suicide. If the interpersonal relationships
12 that an inmate has changed, are they also at a
13 higher risk of suicide?

14 A Well, sure, yes.

15 Q Were you told on the 12th when you were
16 asked to see Mr. Ernst that the day prior his wife
17 had thrown his wedding ring at him and said that she
18 did not need this anymore?

19 A No. I didn't know any of that until a
20 couple months down the road.

21 Q Would that have been important information
22 for you to have known?

23 A I don't believe it would have changed my
24 answer to anything.

25 Q Were you told that one of the deputies for

Professional Reporters

800.376.1006

www.proreporters.com

Pamela Hibbert, LPN

7/30/2015

115

1 Creek County sheriff's office had stated that
2 Mr. Ernst was emotional and upset following the
3 sentencing?

4 A No.

5 Q Who asked you to look at Mr. Ernst?

6 A I believe it was the transport officer.
7 It was either the transport officer or it was
8 Officer Prout because he was in charge that day.
9 He was the supervisor.

10 The transport officer, I don't know what
11 his name is, but he's asked me to see several
12 people. Usually it's because of medical problems,
13 not mental issues. So I can't swear. That's why I
14 kept saying "the transport officer," but it could
15 have been Officer Prout too.

16 Q Did you feel that you were competent to
17 assess Mr. Ernst at this time?

18 A Yes.

19 Q Where did this assessment take place?

20 A It was right outside of medical on the
21 bench. There's benches there and we sat there on
22 the bench. I sat right next to him.

23 Q Did someone go get him out of his cell?

24 A No. They had just brought him back from
25 court. He was coming -- they come through the sally

Professional Reporters

800.376.1006

www.prreporters.com

Pamela Hibbert, LPN

7/30/2015

116

1 port through the booking area, and that's where the
2 medical office is. So he had never went to his
3 cell. He was just coming back.

4 Q And tell me about the conversation you had
5 with Mr. Ernst at that time.

6 A I sat down. That was actually the first
7 time I'd ever met the man face-to-face. I remember
8 telling him who I was and I was a nurse, that
9 someone had asked me to speak to him in regards
10 to -- I was told he got a lengthy sentence. I
11 wanted to make sure he wasn't having any problems.

12 He went on and on about he was fine.
13 "Please don't leave me up here in intake away from
14 my friends. I was expecting this."

15 He showed me no signs or symptoms of being
16 depressed or give me any indication that he was a
17 harm to himself whatsoever.

18 Q The fact that he was not wanting to be put
19 into segregation, was that not a red flag to you?

20 A No, not necessarily, no.

21 Q I mean, he used that term, didn't he?
22 "Don't put me in segregation because I can't see my
23 family." "I can't see my wife and kids" is what you
24 wrote.

25 A No, I don't remember that. Huh-uh.

Professional Reporters

800.376.1006

www.prereporters.com

Pamela Hibbert, LPN

7/30/2015

117

1 Q Look at the very bottom of what I've got
2 ACH 040.

3 "No, this is what I expected. I am okay.
4 I can see my kids and wife."

5 When questioned further, "I promise you I
6 am okay. I just want to go back to my cell. Do not
7 place me in seg" for segregation, correct?

8 A Yeah, but that's -- when I wrote that,
9 that's -- if he would have been in seg, he would
10 still see his kids and wife. I think he was
11 referring to he would be able to have like contact
12 visits in prison. That's what I took it he was
13 referring to. It wasn't anything to do with being
14 in seg or being in the county jail.

15 Q Let me show you the note I was referring
16 to. This is by Adam Marshall. The date of this is
17 June 17 of 2014.

18 Have you ever seen that note before?

19 A I don't even know who Adam Marshall is.

20 Q I think he's the one that is bringing
21 Mr. Ernst -- or had accompanied Mr. Ernst to his
22 court hearing.

23 A The transport officer?

24 Q Yes.

25 A To me this is accurate except I was -- no

Professional Reporters

800.376.1006

www.proreporters.com

Pamela Hibbert, LPN

7/30/2015

118

1 one ever actually told me that they felt he should
2 be put on suicide watch, and I was never told that
3 he was emotional and upset. I mean, maybe he was in
4 the courtroom.

5 But when he was at the jail, when they
6 brought him back to the jail and I spoke with him,
7 he was not -- if I would have thought for one second
8 that he was upset, he would have stayed up there.

9 Q Were you being asked to assess him for
10 purposes of putting him on suicide watch?

11 A I wasn't asked -- no, I was not asked to
12 assess him for suicide watch. I was asked just to
13 assess him because he got a lengthy sentence.

14 Q I mean, can you assess inmates to
15 determine whether they should go on suicide watch?

16 A Anybody can assess an inmate.

17 Q And if you think that the person needs to
18 go on suicide watch, what's the next step?

19 A They go on suicide watch. Any officer --
20 anybody can do that. To take them off is a
21 different story, but to place them, anybody can.
22 You don't have to have no degree, no nothing. They
23 say one tiny bit word about harming themselves or
24 even others, then they definitely go on watch.

25 Q And did you ask him if he would harm

Professional Reporters

800.376.1006

www.proreporters.com

Pamela Hibbert, LPN

7/30/2015

119

1 **himself?**

2 A I specifically asked him.

3 Q What was his response?

4 A Absolutely -- well, I don't think he said
5 "absolutely no," but "no." He promised me he was
6 not suicidal.

7 Q So were you relying upon the self
8 reporting of Mr. Ernst in your assessment?

9 A It wasn't just what he was saying. It
10 was the way he was acting, what I observed. I mean,
11 he didn't show no signs of being distraught. He
12 assured me that he was -- it wasn't anything he
13 wasn't expecting.

14 Like I say, he made a statement about
15 seeing his wife and kids, and I took it as contact
16 visits when they get to prison. That's the way I
17 took it. That's what I thought he was trying to get
18 over to me.

19 Q But you hadn't heard the story about June
20 11, what had taken place with his wife, had you?

21 A No, I hadn't. I didn't know anything
22 about any of his meds being cut down. He never
23 stated -- told me anything like that.

24 But even all of that, I would have taken
25 that into consideration, but I don't believe it

Professional Reporters

800.376.1006

www.prreporters.com

Pamela Hibbert, LPN

7/30/2015

120

1 would have changed anything because I believed -- I
2 believe myself that the man would not harm himself.
3 I believed he was okay.

4 Q Have you ever read where individuals that
5 have suicidal ideations, that once they have
6 determined a plan, a method and a timing, that they
7 are at peace with the decisions that they make?

8 A I have heard that, yes.

9 Q And that they can act and appear to be
10 very calm during those periods, can't they?

11 A Yes.

12 Q You knew that at the time you were seeing
13 Mr. Ernst on the 12th?

14 A Yes.

15 Q Looking back on that, does it appear to
16 you that that's what Mr. Ernst was doing?

17 A No. No.

18 Q How can you tell the difference?

19 A I just don't -- I don't believe in my
20 heart that that man was going to harm himself. I
21 was very, very surprised several days later when it
22 happened. If I would have thought for one second,
23 he would have went into segregation. I have no
24 problem doing that.

25 Q The late entry continues with another

Professional Reporters

800.376.1006

www.prreporters.com

Pamela Hibbert, LPN

7/30/2015

121

1 contact that you had with Mr. Ernst on June 13 of
2 2014, correct?

3 A Yes.

4 Q Tell me where that contact occurred.

5 A It would have been in the hallway. We go
6 into the hallway of the pods. It's kind of like a
7 circle and we're right in the middle, and then the
8 officers call the inmates out one pod at a time for
9 their medicine. Mr. Ernst came out for his medicine
10 and I had spoke with him.

11 I did it the following day, too. I
12 actually seen them three days in a row. I believe
13 that that night on the 12th I seen him also as I
14 passed the meds that evening.

15 But each time I seen him, "How are you
16 doing? Are you feeling" -- you know. And he acted
17 like everything was just hunky-dory, and he wasn't
18 skipping or we weren't telling jokes or anything,
19 but I would have never --

20 Q Were you ever told by staff that another
21 inmate had approached staff and told them that
22 Mr. Ernst was talking about committing suicide?

23 A No.

24 Q If you had been given that information,
25 what would you have done?

Professional Reporters

800.376.1006

www.prreporters.com